

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

JANET PATRICIA MASCOLL,

Plaintiff,

ORDER

- against -

CV 1998-4305 (MDG)

NEW YORK CITY BOARD OF EDUCATION, et  
al.,

Defendants.

- - - - - -X

For the reasons stated on the record at the July 18, 2005 conference, I recuse myself from presiding over the retrial of this matter. Title 28 U.S.C. § 455(a) provides that "[a]ny . . . magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Circumstances that constitute an appearance of partiality warrant recusal even where actual partiality has not been shown. See Liljeberg v. Health Servs., Acquisition Corp., 486 U.S. 847, 860 (1988); Chase Manhattan Bank v. Affiliated FM Ins. Co., 343 F.3d 120, 127 (2d Cir. 2003).

The transcript of the July 18, 2005 conference, as well as the transcript of the May 6, 2005 conference, will be sealed. As noted, sealing is being ordered to avoid any possible prejudice to any of the parties as a result of the matters discussed. The plaintiff and counsel for the defendants will be provided copies of the transcripts but may not disclose the transcripts or their contents to any person other than for the matters reflected in the

minute entries for the conference. However, the parties have the right to seek to unseal the transcripts if necessary.

**SO ORDERED.**

Dated: Brooklyn, New York  
July 25, 2005

/s/  
MARILYN D. GO  
UNITED STATES MAGISTRATE JUDGE